



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MURAMATSU & ASSOCIATES
114 PACIFICA
SUITE 310
IRVINE CA 92618

COPY MAILED

JAN 04 2010

In re Application of :
Naoto Hirota :
Application No. 10/657,470 : DECISION ON PETITION
Filed: September 8, 2003 :
Attorney Docket No. KANEKO.008AUS :

This is a decision on the petition, filed October 19, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to file a proper reply in a timely manner to the Final Rejection mailed September 26, 2008. A Notice of Abandonment was mailed on August 4, 2009.

Applicant files the present petition and states that a reply to the Office action mailed September 26, 2008, was timely filed on March 24, 2009 with payment of a 3-month extension fee. Applicant provides a copy of the above.

The Office is in receipt of the reply received on April 6, 2009. However, an Advisory Action was mailed on May 4, 2009, stating that, "THE REPLY FILED 06 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE." The Advisory Action also stated that the period for reply expires 3 months from the mailing date of the final rejection.

In view of the above, and since a **proper** reply was not filed prior to the maximum time period for reply, the petition to withdraw the holding of abandonment under 37 CFR 1.181 is **dismissed**.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

By mail: **Mail Stop PETITIONS**
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By internet: EFS-Web
 www.uspto.gov/ebc/efs_help.html
 (for help using EFS-Web call the
 Patent Electronic Business Center
 at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions